

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

MONROE DIVISION

ANTHONY D. OATIS

CIVIL ACTION NO. 15-2384

VERSUS

JUDGE ROBERT G. JAMES

STATE OF LOUISIANA

MAGISTRATE JUDGE KAREN L. HAYES

RULING

Pending before the Court is a Petition for Writ of *Habeas Corpus* filed by *pro se* Petitioner Anthony D. Oatis (“Oatis”), pursuant to 28 U.S.C. §2254. Tatum attacks his October 20, 2014 conviction for manslaughter and the resulting hard labor sentence imposed by the Fifth Judicial District Court, Richland Parish.

On October 20, 2015, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 8] in which she recommended that the Court dismiss the Petition without prejudice based on Oatis’ failure to exhaust his state court remedies. Although Oatis sought post-conviction relief from the trial court, he did not appeal the trial court’s denial of that relief to the Second Circuit Court of Appeals and then to the Louisiana Supreme Court prior to filing his federal Petition.

As part of her analysis, Magistrate Judge Hayes considered whether a stay, rather than a dismissal, is appropriate in this case. However, she concluded that a stay is not appropriate because Oatis does not have both exhausted and unexhausted claims; he has failed to exhaust his state court remedies for all of his claims. Further, based on his guilty plea, Magistrate Judge Hayes found that his claims do not appear to have merit.

On November 3, 2015, the Clerk of Court received and docketed Oatis' timely filed objections [Doc. No. 9]. Oatis claims that he unintentionally filed his Petition in federal court when he intended to appeal the trial court's denial of post-conviction relief to the Second Circuit Court of Appeals.

While the Court does not question Oatis' honesty, his mistake does not change the analysis. If he has an equitable argument for his late filing of an appeal in state court, he can make that argument to the Second Circuit Court of Appeals. However, the Court finds that Magistrate Judge Hayes correctly stated and applied the law and thus ADOPTS her Report and Recommendation. Oatis' Petition is DISMISSED WITHOUT PREJUDICE.

MONROE, LOUISIANA, this 10th day of November, 2015.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE